

Col. 5, lines 40-45 (emphasis added). Cook's e-mail system is not an instant messaging system. In fact, Cook does not mention instant messaging at all, and therefore, is not an anticipatory reference as it does not teach the instant messaging elements of claims 1, 21 and 22. In particular, Cook does not describe or suggest establishing an instant messaging communication session, facilitating a text instant message to be sent between users, enabling presentation of an instant messaging GUI, or invoking voice communication through an instant messaging host, as claimed.

The Examiner is apparently equating various aspects of Cook's e-mail system with the claimed instant messaging features. Applicants submit that the claimed features may not be properly equated to aspects of Cook's e-mail system because an instant messaging system is significantly different than an e-mail system, and because the presently claimed inventions leverage the differences between the two systems. For example, one very significant distinction between instant messaging systems and e-mail systems is that the former enables "instant" or essentially real-time communication between users while the latter only enables non-real time communication between users. As described in the application:

Instant messages are private online conversations between two or more people who have subscribed to the instant messaging service and have installed the necessary software. Because such conversations take place in essentially real-time, instant messaging can provide immediate access to desired information. Instant messaging is becoming a preferred means of communicating among online subscribers.

Page 1, lines 19-22 (emphasis added). E-mail systems, in contrast, do not support essentially real-time conversation between users due to, for example, the necessity that the e-mail message be stored in a mail box and only delivered to the recipient when the recipient specifically selects the message for delivery.

For at least these reasons, applicants request reconsideration and withdrawal of the rejection of claims 1, 21 and 22, and their dependent claims 2-20, 23-25, 37-39 and 41-43.

Independent claim 44 recites, among other features, "receiving, from a sender, a text *instant message* addressed to a recipient" (emphasis added), "determining, in response to receipt of the text *instant message*, the capabilities of the recipient to accept voice communications" (emphasis added), "delivering the text *instant message* to the recipient" (emphasis added), "enabling presentation of a first text *instant messaging* graphical user interface to the recipient" (emphasis added), and "enabling manipulation by the recipient ... to invoke voice

communications between the sender and the recipient through the *instant messaging* host” (emphasis added). For at least the reasons described above, Cook does not describe or suggest the instant messaging features recited in claim 44.

Applicant submits that all claims are in condition for allowance.


Applicants do not acquiesce in the Examiner's characterizations of the art. For brevity and to advance prosecution, however, applicants may have not addressed all characterizations of the art and reserve the right to do so in further prosecution of this or a subsequent application. The absence of an explicit response by the applicants to any of the Examiner's positions does not constitute a concession of the examiner's positions. The fact that applicant's comments have focused on particular arguments does not constitute a concession that there are not other arguments for patentability of the claims. All of the dependent claims are patentable for at least the reasons given with respect to the claims on which they depend.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: _____

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